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Elimination of racism, racial discrimination, xenophobia and related intolerance: comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Report of the Secretary-General

Summary

The present report is submitted in accordance with General Assembly resolution 63/242, entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action", in which the Assembly requested the Secretary-General to submit a report on the implementation of the resolution to the Assembly at its sixty-fourth session.

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I. Introduction

1. In paragraph 2 of its resolution 63/242, the General Assembly expressed its profound concern about and its unequivocal condemnation of all forms of racism and racial discrimination, including related acts of racially motivated violence, xenophobia and intolerance, as well as propaganda activities and organizations that attempt to justify or promote racism, racial discrimination, xenophobia and related intolerance in any form. In paragraphs 3 and 6, the Assembly expressed deep concern at the attempts to establish hierarchies among emerging and resurgent forms of racism, racial discrimination, xenophobia and related intolerance and recognized that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on related grounds, such as sex, language, religion, political or other opinion, social origin, property, birth of other status. In paragraph 8, the Assembly emphasized that it is the responsibility of States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, including measures to ensure that such motivations are considered an aggravating factor for the purposes of sentencing, to prevent those crimes from going unpunished and to ensure the rule of law.

2. The General Assembly reaffirmed, in paragraph 7 of resolution 63/242, that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law. In paragraph 10, the Assembly called upon all States to take all necessary measures to combat incitement to violence motivated by racial hatred, including through the misuse of print, audio-visual and electronic media and new communication technologies, and, in collaboration with service providers, to promote the use of such technologies, including the Internet, to contribute to the fight against racism, in conformity with international standards of freedom of expression and taking all necessary measures guarantee that right.

3. In the context of the foregoing, the General Assembly, in paragraph 58 of resolution 63/242, requested the Secretary-General to submit a report with recommendations on the implementation of the resolution to the Assembly at its sixty-fourth session.

4. The present report was preceded by another report on the same subject (A/63/366), submitted in accordance with General Assembly resolution 62/220, which reported on global efforts undertaken in this regard and on the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action from August 2007 to July 2008.

5. In accordance with previous practice, the present report summarizes information received on activities undertaken by various actors pursuant and relevant to General Assembly resolution 63/242. In preparing the report, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sent notes verbales to Member States and letters to United Nations bodies, regional organizations, national human rights institutions and non-governmental organizations, requesting information, to be received by 3 July 2009, on the implementation of resolution A/63/242.

6. Following the request for contributions, OHCHR received submissions from the following nine Member States: Azerbaijan, the Bolivarian Republic of Venezuela, Bulgaria, Guatemala, Japan, Morocco, Rwanda, Switzerland and Turkmenistan. Twelve replies were received from United Nations bodies, regional and other intergovernmental organizations, national human rights institutions and non-governmental organizations. The information received from the Member States and other actors is summarized in the present report. The original text of the contributions is available for consultation in the files of the Secretariat.

II. Contributions received

A. Member States

Azerbaijan

7. Azerbaijan highlighted that, in chapter III, article 25 of its Constitution, the equality of rights and liberties of everyone is guaranteed. Article 47 of its Constitution prohibits propaganda, incitement to racial, national, religious and social discord and hatred. In 2009, article 25 was amended to prohibit discrimination in the provision of benefits and privileges.

8. Azerbaijan noted that article 109 of its penal code criminalizes the persecution of any group or organization on political, racial, national, ethnic, cultural, religious, sex or other grounds prohibited by international law. Articles 111 and 283 of the code provide penalties for racial discrimination and for incitement to national, racial, social or religious hatred, respectively. While article 154 stipulates penalties for the infringement of the equality of citizens, articles 167 and 168 penalize illegal impediments to the holding of religious rituals and infringement of citizens' rights on the pretext of conducting religious activities, respectively. Azerbaijan also reported one conviction for the violation of article 283 and two convictions for the violation of article 168 in 2008.

9. In its submission, Azerbaijan reported that foreigners and stateless persons are equal before its law and courts. The State Migration Service was established by Presidential decree on 19 March 2007. In 2008, several regulations were amended in order to improve the State apparatus in the area of migration management. In 2009 the President of Azerbaijan issued a decree on the application of the "single window" principle in migration management, which simplifies the procedure for granting residency and work permits to foreigners. Azerbaijan also reported that, in December 2006, it adopted the national action plan on the protection of human rights.

Bolivarian Republic of Venezuela

10. In its submission, the Bolivarian Republic of Venezuela reported that it is a multi-ethnic, multiracial and multi-cultural country. Equality and non-discrimination are enshrined in its Constitution, article 19 of which guarantees the enjoyment of human rights without discrimination and article 21 of which provides for the equality of all under the law.

11. The Government of the Bolivarian Republic of Venezuela has adopted positive measures to protect people or groups vulnerable to discrimination. It has also established normative frameworks to address discrimination, racism, and xenophobia including protection of refugees, protection of children, protection of labour rights and protection of women against violence. There is a strong focus on indigenous peoples, Afro-descendants, migrants, refugees, women, children, adolescents, people with disabilities and the elderly. In relation to national institutions, the Government has created the office of the Ombudsman to promote and defend human rights in the country.

Bulgaria

12. Bulgaria has ratified the International Convention on the Elimination of All Forms of Racial Discrimination. The principle that all persons are born free and equal in dignity and rights is enshrined in article 6, paragraph 2, of the Constitution. This provision explicitly prohibits discrimination on the grounds of race, nationality, ethnicity, sex, origin, religion, education, opinion, political affiliation, marital or social status or property status.

13. In September 2003, Bulgaria adopted a law on protection against discrimination. Drafted by an inter-institutional expert group with the participation of non-governmental organizations (NGOs), the law provides safeguards against all forms of discrimination and prohibits direct and indirect discrimination. As provided for in the law, the Commission for Protection against Discrimination was created to prevent discrimination, to protect against discrimination and to ensure equal opportunities. The Commission is authorized to receive and investigate complaints as well as to act ex officio in cases of discrimination. Since 2006, the effectiveness of the Commission's work has been enhanced through the organization of regular sessions in various towns in the country as well as training and awareness-raising seminars. The Commission has adopted a long-term plan of action against discrimination, 2006-2010, which includes the following priorities: conducting studies, carrying out information campaigns, establishing a database and conducting thematic monitoring.

Guatemala

14. Guatemala has taken various measures in order to eliminate racism, racial discrimination, xenophobia and related intolerance, including mechanisms and institutions, which either by mandate or objective, have advanced the Durban Declaration and Programme of Action. These include the Presidential Commission on Discrimination and Racism against Indigenous Peoples, the Presidential Commission of Human Rights, and the Human Rights Section of the Ministry of External Relations. Guatemala considers the Durban Declaration and Programme of Action to be complementary to other international human rights instruments.

15. In 2006, Guatemala published the report of a diagnostic study and investigation on racism in the country. In 2007, it produced its second report on indigenous women's access to the judicial system. The latter report was prepared by the Ombudsman's Office for Indigenous Women, which examines the situation of indigenous women.

Japan

16. The Government of Japan has taken several measures to fight racial discrimination. The Japanese penal code provides that incitement to racial discrimination or participation in such an act is punishable as a crime of instigation (articles 61 and 62). There is no specific law to punish violence against specific groups, although aspects of the penal code could fulfil this requirement, for example: the riot provisions for cases in which a large number of persons assemble and use violence or threats of violence (article 106); provisions against rape (article 177); homicide (article 199); bodily injury (article 204); and unlawful meeting and assembly with dangerous weapons (article 208-2).

17. Japan noted that its broadcasting law provides that broadcasters, in compiling programmes for domestic broadcasting, shall not disturb public security, good morals and manners, shall be politically impartial and shall broadcast the news without distorting facts. Information on the Internet that infringes on the rights of others is addressed by the law concerning limitations on the liability for damage of specified telecommunications service providers and the disclosure of details on information senders. The guidelines for defamation and privacy adopted by the Telecommunications Carriers Association as a code of conduct for Internet service providers and similar businesses were revised in October 2004. In this process a procedure for fighting serious human rights abuses was introduced in which the human rights organs of the Ministry of Justice were authorized to request Internet service providers to delete information that infringes on the rights of the others.

18. Japan reported that there are provisions under the legal system, that prohibit and/or punish organizations and/or activities that promote or incite racial discrimination. Under the provisions of the subversive activities prevention law, organizations could be dissolved, their activities restricted or their members punished for promoting or inciting racial hatred or for engaging in violent and destructive activities.

Morocco

19. Morocco reported that the preamble of its Constitution reaffirms a commitment to the principles of universal human rights. Moreover, article 431-1 bis of Act 24-03 of 11 November 2003, which completes the criminal code, criminalizes discrimination. Under article 431-1, discrimination is punishable by imprisonment for a period of one month to two years and a fine ranging from 1,200 to 5,000 dirhams. Criminalization is not limited to acts of discrimination against individuals but extends to all forms of distinctions among entities, in accordance with article 431-1 bis.

20. Morocco noted that discrimination is equally criminalized in its labour law. Article 9 of the labour code forbids any discrimination. The criminalization and the prohibition of discrimination extends to the field of public freedoms and political practice, as reflected in the last amendments of the laws on the press, associations and political parties. Article 51 of the law on organizations and the functioning of penitentiary institutions forbids any discriminatory treatment of prisoners based on race, colour, sex, nationality, language, religion, opinion or social class.

21. Article 39 bis of the press code, amended on 3 October 2002, prohibits incitement of racial discrimination that employs public means or discourses, or occurs during public gatherings or in public places. Such acts are punishable by imprisonment for a period ranging from one month to one year and a fine of up to 3,000 dirhams.

22. The law on associations, as amended on 23 July 2002, as well as the new law on political parties prohibits the establishment of a political party founded on discrimination.

23. Morocco reported that on the occasion of the Durban Review Conference, the Ministry of the Justice reaffirmed its view that the next review conference should focus on the implementation of operational mechanisms as well as actions that follow up on the implementation of recommendations of the Durban Declaration and Programme of Action. Such actions could include the advancement of justice for all victims and organization of seminars on religion, racial hatred and freedom of expression. Morocco has proposed to host a seminar on this issue for the African region.

Rwanda

24. The Constitution of Rwanda guarantees equality and freedom from discrimination. It stipulates that all Rwandans are born and remain free and equal in rights and duties (article 11, para. 1). It prescribes that discrimination based on, inter alia, ethnic origin, tribe, clan, colour, sex, region, social origin, religion or faith, opinion, economic status, culture, language, social status, physical or mental disability or any other form of discrimination is punishable by law (article 11, para. 2). In the same spirit, the criminal code prohibits any form of discrimination against individuals or groups of people. In this vein, article 393 of the code envisages punitive measures against any person, who, by defamation or public insult, manifests aversion or hatred towards a group of persons or a given race or religion, or commits an act likely to provoke such aversion or hatred.

25. Rwanda reported that its law to punish the crime of genocide, crimes against humanity and war crimes, adopted in 2003, was followed by the adoption of law No. 18/2008 on the punishment of the crime of genocidal ideology on 23 July.

26. Discrimination is also prohibited in employment by the general statute of public service and the labour code. Furthermore, the organic law No. 20/2003 on education of 3 August 2003 outlaws discrimination in education and emphasises the promotion of a culture of peace, tolerance, justice, respect for human rights, solidarity and democracy. The law governing political organizations and politicians (organic law No. 19/2007 of 4 May 2007) prohibits political organizations based on ethnicity, race, tribe, clan, kinship, region, sex, religion or other criteria that may give rise to discrimination. Discrimination or incitement that may lead to the commission of crimes against certain individuals and groups is also prohibited in the Rwandan press law (law No. 18/2002 of 11 May 2002).

27. Rwanda noted that the constitutional prohibition of gender discrimination is complemented by law No. 59/2008 on the prevention and punishment of gender-based violence. The matrimonial regime and succession law (law No. 22/99 of 12 November 1999) categorically creates equal rights for both men and women.

28. Rwanda created several specialized institutions to enhance equality and combat discrimination, including the Office of the Ombudsman, the Rwanda National Commission for Human Rights, the Rwanda National Unity and Reconciliation Commission, the Rwanda National Commission for the Fight against Genocide, the Rwanda National Electoral Commission, the National Law Centre and the Women and Youth Councils and Gender Observatory.

Switzerland

29. The new federal law on foreigners allows, for the first time, a statutory recognition of the policy of integration. In order to enhance equality of opportunity and to prevent discrimination, the Federal Office of Migrants financially supports a large number of programmes for integration. The cantons also receive fixed allowances in order to facilitate the social and professional integration of refugees and other categories of foreigners. In August 2007, the Federal Council adopted a catalogue of 45 measures of integration that were implemented by 11 federal offices and coordinated by the Federal Office on Migrants.

30. Since 2001, the Service for the Fight against Racism (Service de lutte contre le racisme) has financed more than 800 projects nationwide. The Federal Office of Equality between Women and Men has supported projects focusing on professional integration. The Federal Office of Public Health has also developed projects and strategies in preventive health care for migrants.

31. With regard to education, the Conference of Directors of Public Institutions, which focuses on the integration of children of migrants, reaffirmed the right to education and the principle of access to schools for all children irrespective of their residency status.

32. Switzerland also noted that since January 2003 the Service of National Coordination for the Fight against Criminality on the Internet has been active in two areas. It receives alerts from the public and conducts independent research on the Internet in order to fight criminal acts, with particular emphasis on the issues of child pornography, right extremism and racism. With regard to ethics in the electronic media, pertinent issues are handled by the Swiss Press Council and the Independent Authority on complaints.

33. Switzerland also pointed out that the Service for the Fight against Racism currently implements a monitoring system on racism, xenophobia and discrimination. In 2010, in cooperation with other offices of the Federal Administration, the Service will launch a pilot project for a survey on racism and xenophobia for a period of five years.

Turkmenistan

34. The Government of Turkmenistan pointed out that it continues reforming the national system for the protection of human rights in accordance with its international obligations. In this regard, a number of practical measures were implemented in the country in 2007. These measures include the establishment of the State commission for the review of citizens' complaints regarding the activities of law enforcement agencies, the interdepartmental commission on ensuring Turkmenistan's compliance with its international human rights obligations and the State commission for the enhancement of national legislation. The interdepartmental

commission aims, over the long term, to monitor national legislation in the area of human rights and to prepare proposals on institutional reforms and the implementation of international human rights norms.

35. The new amendment of the Constitution, which was adopted in September 2008, is in accordance with international human rights principles and guarantees a wider spectrum of rights and freedoms. The amendment complements other measures being taken by the Government to eliminate all forms of racial discrimination. In this regard, the new amendment of article 19 of the Constitution guarantees equal rights and freedoms for individuals and citizens before the law, regardless of nationality, race, sex, origin, property and official status, place of residence, language, religious preference, political convictions or political party affiliation.

36. Additionally, article 7 of the labour code of Turkmenistan, which entered into force on 1 July 2009, prohibits the limitation of labour rights or benefits on the grounds of, inter alia, nationality, race, sex, origin, property and official status, place of residence, language, age, religious preference, political convictions or membership in a political party.

B. United Nations bodies

International Labour Organization

37. In its contribution, the International Labour Organization (ILO) referred to its submission to the Durban Review Conference, in which it summarized its activities to combat racial discrimination. The main thrust of the ILO Decent Work Agenda is to promote access to decent work for all without discrimination. The promotion of the ratification and effective implementation of ILO conventions addressing equality and non-discrimination at work, including the 1998 Declaration on Fundamental Principles and Rights at Work, is at the heart of the action undertaken by ILO to promote the implementation of the Durban Declaration and Programme of Action. The ILO Declaration on Social Justice for a Fair Globalization of 2008 provides a strong institutional platform to deepen the implementation of the Decent Work Agenda at the national and international levels.

38. ILO supervisory bodies have continued to examine the implementation of relevant ILO conventions by ratifying countries and have issued comments and recommendations in order to ensure progress in the elimination of discrimination.

39. ILO also drew attention to the most recent report of the Committee of Experts on the Application of Conventions and Recommendations, which addressed issues relating to racial discrimination in the context of the ILO conventions relating to discrimination in employment and occupation (Convention No. 111), indigenous and tribal peoples (Conventions Nos. 107 and 169), as well as migrant workers (Conventions Nos. 97 and 143). In June 2009, the Committee on the Application of Standards of the International Labour Conference discussed the application of these conventions in respect of several countries.

40. During the Durban Review Conference, ILO organized a side event entitled "Combating Racism in the World of Work", which focused on the role of the Decent Work Agenda in combating racism and racial discrimination.

United Nations Children's Fund

41. The United Nations Children's Fund (UNICEF) noted that, as part of efforts to fulfil its overall mandate, it has reoriented its programming at the global and national levels to emphasize the use of the human rights-based approach to programming. In this regard, it reported progress by the UNICEF country office in Romania in supporting social inclusion and reducing disparities and discrimination among children during 2008.

42. In 2008, in Mexico, a major mapping exercise was undertaken to identify, document and assess the availability, quality and level of disaggregation of data on more than 130 child indicators. The results of this exercise will contribute to future strategies and processes for monitoring the situation of children's rights as well as programming in accordance with the principles and guidelines of the human rights-based approach to programming.

43. Advocacy by UNICEF in Colombia led to the positioning of education as a central element in the protective environment for children's rights and the subject of increased attention from Government and the private sector.

44. In the North Caucasus region, UNICEF is implementing a peace and tolerance promotion programme, utilizing a newly developed training manual for children between the ages of 12 and 15 years. The manual was developed with the active involvement of children and teachers. Pilot training was conducted in 180 schools, reaching more than 100,000 children and 600 teachers. One hundred twenty schools integrated the manual into their curricula.

45. In Guatemala, UNICEF completed a study on the situation of adolescent indigenous girls at risk of multiple forms of discrimination. In Gabon, it developed a strategy to advocate changes in national social policies to integrate indigenous pygmies in protection, survival and development programmes. Similarly, in the Bolivarian Republic of Venezuela, UNICEF is supporting changes in the implementation of the education system that incorporate values of non-discrimination for indigenous and Afro-descendant peoples.

46. UNICEF also addresses discrimination, racism and xenophobia in the area of migration in countries of transit and destination. In South Africa, it is collaborating with the United Nations country team and local authorities to address racism, xenophobia and other forms of related intolerance directed against migrants, in particular migrant children and adolescents.

47. The Regional Office for South Asia focuses on social exclusion among other priorities based on a strategy that includes the development of a specific social policy course with an emphasis on social exclusion.

Office of the United Nations High Commissioner for Refugees

48. In its submission, the Office of the United Nations High Commissioner for Refugees (UNHCR) reported that it contributes to the debate and efforts to combat discrimination, racism and xenophobia from the particular perspective of its mandates in order to provide international protection to refugees, to assist Governments in finding durable solutions and to prevent and reduce statelessness and protect stateless persons. UNHCR noted that racism and xenophobia are relevant to its work in the following respects: (a) as a major root cause of

displacement, (b) as an obstacle for asylum-seekers and protection against refoulement, (c) as an obstacle to attain or retain a nationality, (d) as an obstacle to equal access, and (e) as an obstacle to finding durable solutions. Noting the international platform that the Durban Declaration and Platform for Action provides for fighting racism, racial discrimination, xenophobia and related intolerance, UNHCR also reported that, since 2001, it has more systematically incorporated anti-xenophobia efforts into its operations.

49. UNHCR contributed to the preparatory process of the Durban Review Conference through submitting inputs to the questionnaire prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to decision PC.1/10 of the Preparatory Committee of the Durban Review Conference. The UNHCR submission highlighted the impact of contemporary forms of racism, xenophobia and related intolerance on people of concern as well as on its work. UNHCR in Latin America also contributed to the Regional Conference for Latin America and the Caribbean, preparatory to the Durban Review Conference, which took place from 17 to 19 June 2008 in Brasilia. During the Durban Review Conference, the United Nations High Commissioner for Refugees delivered a statement at the high-level segment. UNHCR, alongside OHCHR, the International Organization for Migration (IOM), and ILO, co-organized a side-event entitled "Migration, Discrimination and Economic, Social and Cultural Rights". UNHCR was also represented at the expert panel of the side-event organized by OHCHR and the Joint United Nations Programme on HIV/AIDS (UNAIDS) entitled "HIV-related Discrimination: Travel restrictions on the entry, stay and residence of people living with HIV".

C. Regional and other intergovernmental organizations

European Commission against Racism and Intolerance

50. The European Commission against Racism and Intolerance draws attention to the different forms of racism in Europe today while underlining the need to develop specific but interrelated and mutually reinforcing measures to address them. The fight against terrorism has, in some cases, resulted in discriminatory practices against some minority groups as well as increased levels of racial prejudice. It expressed concern about racial profiling by the police in Europe and referred to its General Policy Recommendation No. 8 of March 2004 on combating racism while fighting terrorism, which focuses on measures to be taken to ensure that the fight against terrorism does not violate the prohibition of discrimination. The Commission also dealt with racial profiling in its General Policy Recommendation No. 11, adopted in June 2007, on combating racial discrimination and racism in policing. In its 2008 report, the Commission advocated strengthening legal protection, public information and training campaigns as important bulwarks against racism. It urged the establishment of specialized national bodies to combat racism. The Commission also reported that migrants, refugees and asylum-seekers are particularly exposed to negative opinion and urged politicians and the media to refrain from fuelling xenophobic feelings, especially in light of the current financial and economic crisis. The Commission urged the criminalization of public incitement to violence and hatred or discrimination, public insults and defamation or threats, exhorted the European States to act against the use of the Internet for racist,

xenophobic purposes and encouraged the use of specific measures to address racism and racial discrimination in schools.

European Union Agency for Fundamental Rights

51. The European Union Agency for Fundamental Rights, in its annual report for 2009, noted that lack of awareness, poor data collection and gaps in legal protection hampered the implementation of effective policies against discrimination. It called for better official data to help raise awareness of how to report discrimination and encouraged effective crime prevention initiatives in Member States. It also urged Member States to close the gaps in legal protection, raise awareness of available legal instruments and target specific groups at the risk of discrimination.

D. National human rights institutions and other independent national bodies

Human Rights Defenders Office: Armenia

52. The Human Rights Defenders Office of Armenia noted that discrimination against vulnerable groups can be overcome through the greater involvement of those groups in the formulation and implementation of public policy on related issues. Noting that a coherent policy of positive measures by the State is indispensable for fighting against racism, racial discrimination, xenophobia and related intolerance, it therefore recommended a set of recommendations based on the best practices in the field of prevention of indirect discrimination through affirmative action, specific benchmarks and actions as a first step to standard setting by the General Assembly. The recommendations should be specific, providing for particular positive measures to be taken by the State in different fields of public life, and should allow for a follow-up procedure through the Special Rapporteur of the Human Rights Council on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

Office of the Ombudsman: Peru

53. The Office of the Ombudsman noted that discrimination is prohibited and punishable under the constitutional, criminal and administrative laws of Peru. Addressing discrimination entails dealing with the fabric of social relations, which is often based on prejudices and stereotypes. The Office of the Ombudsman has a constitutional mandate to hear cases of discrimination and to recommend remedial measures by respective authorities, which may include cessation of discrimination, the conduct of investigations to clarify the allegations and, if necessary, the imposition of penalties. In April 2009, the Office of the Ombudsman published a report of related cases, which it processed in 2007 and 2008, and analysed the performance of Government institutions responsible for dealing with discrimination. During the same period, the Office dealt with 149 cases of discrimination covering various areas, including HIV status, gender, race and ethnicity, disability, origin, age, religion, sexual orientation and physical appearance.

Commission for Human Rights and Good Governance: United Republic of Tanzania

54. The Commission for Human Rights and Good Governance was established under article 129 of the Constitution of the United Republic of Tanzania and by Act No. 7 of 2001 of the Parliament. The Commission has a broad mandate to promote and protect human rights and good governance, including oversight functions over Government entities and individuals. The Commission works to encourage the ratification of international instruments and to enhance the national framework for combating racism and racial discrimination. In 2007, it signed a memorandum of understanding with NGOs in order to enhance civil society participation in human rights monitoring and worked with the educational authorities to include human rights education in the school curriculum. In the coming years, the Commission will enhance its human rights awareness activities, increase the scope of monitoring and reporting on racial discrimination, establish a focal point as main interlocutor with the Anti-Discrimination Unit of OHCHR and work towards the development of a national plan of action on racism and racial discrimination.

Office of the Ombudsman: Ukraine

55. The Office of the Ombudsman in Ukraine reported that its monitoring indicates an alarming upsurge in crimes of a racial and xenophobic nature. It noted that for the period between 2004 and 2009, the Commissioner for Human Rights of the Ukrainian Parliament received complaints from about 700 persons, of which approximately 250 were foreigners. The annual and special reports on protection of human rights of the Commissioner repeatedly underline the need to improve the national anti-discrimination legislation and undertake necessary preventive measures against racism, racial discrimination, xenophobia and related intolerance. In April 2009, with the encouragement of the Ombudsman, the Odessa City Council adopted a resolution to join the European Coalition of Cities against Racism. In May 2009, the Ombudsman acted as a moderator of the round table organized in Ukraine by the European Commission against Racism and Intolerance.

56. On the International Human Rights Day in 2008, the special report of the Ombudsman on the situation of implementation of international human rights norms in Ukraine was presented to the Verkhovna Rada of Ukraine.

E. Non-governmental organizations

Forum Menschenrechte

57. The submission from Forum Menschenrechte, an association of more than 50 German human rights NGOs, endorsed the emphasis in General Assembly resolution 63/242 on the following subject matters: attempts to establish hierarchies among emerging and resurgent forms of racism (para. 3); discriminatory measures taken in the struggle against terrorism (para. 4); aggravating factors for the purposes of sentencing for racist motivations (para. 8); and the revision of immigration laws, policies and practices (para. 9). It also supported the emphasis on strengthening existing international mechanisms for fighting racism, especially the International Convention on All Forms of Racial Discrimination and the Committee on the Elimination of Racial Discrimination, the Durban follow-up mechanisms, the review conference of 2009 and the special mechanisms of the Human Rights Council. The

NGO also noted that many Member States still adopt a weakened definition of racism, contrary to the wider definition used in the international instruments and practice. The Forum recommended stronger emphasis in the international arena on addressing issues of institutional racial discrimination in the treatment of non-nationals and migrants and racial profiling by law enforcement agencies. The Forum also noted its concern about the quality of standard setting at the national level, where emphasis is often placed on compliance with international obligations rather than the achievement of a clear objective. As a result, it provides loopholes for continuing discrimination. The Forum's submission also emphasized the importance of involving civil society groups in the development of national action plans as well as an effective quality control mechanism to ensure that such plans meet established international standards.

Human Rights First

58. In its submission, Human Rights First recommended concrete measures to combat racist violence and other violent hate crimes motivated by discrimination based on race, religion, ethnicity, sexual orientation, gender identity or disability. With specific reference to the implementation of General Assembly resolution 63/242, it urged Member States to: acknowledge and condemn violent hate crimes whenever they occur; enact laws that expressly address hate crimes; strengthen enforcement and prosecute offenders; provide adequate instructions and resources to law enforcement bodies; undertake parliamentary, inter-agency or other special inquiries into the problem of hate crimes; monitor and report on hate crimes; create and strengthen anti-discrimination bodies; reach out to community groups; speak out against official intolerance and bigotry; and encourage international cooperation on hate crimes. In respect to incitement, it recommended that all discussions regarding the issue of incitement to religious hatred and/or defamation of religions should be discussed jointly in the context of freedom of expression, which is a key principle of international law. It urged the Secretariat to find creative mechanisms to unite States of the Human Rights Council on an anti-racism agenda.

Cercle de Recherche sur les Droits et les Devoirs de la Personne Humaine

59. In its submission, the Cercle de Recherche sur les Droits et les Devoirs de la Personne Humaine reiterated the position expressed by its President during the Durban Review Conference about the elaboration of a code of conduct on the exercise of freedom of expression, assembly and association. This will provide precision on the application of article 19(3) of the International Covenant on Civil and Political Rights.

III. Update on activities

60. Below is a summary of various developments which have taken place since the submission of the last report (A/63/366) concerning the implementation of the Durban Declaration and Programme of Action and the organization of the Durban Review Conference.

61. The previous report concluded with the first substantive session of the Preparatory Committee for the Durban Review Conference, which took place in Geneva from 21 April to 2 May 2008. During that session, the Preparatory

Committee by its decision PC.2/4 of 22 April, decided to establish an inter-sessional open-ended intergovernmental working group to follow up the work of the Preparatory Committee. The working group was specifically tasked to follow up the work of the Preparatory Committee, including through reviewing contributions and commencing negotiations on the draft outcome document, and to report thereon to the Preparatory Committee. The working group held five plenary sessions at its two sessions. Its first session was held from 26 to 28 May, and the second from 5 to 29 September. It submitted its recommendations of 17 October 2008 (A/CONF.211/PC.3/2), including certain indicative elements in relation to the outcome document and proposals with regard to the modalities of negotiations on the draft outcome document to the second substantive session of the Preparatory Committee.

62. The second substantive session of the Preparatory Committee for the Durban Review Conference was held from 6 to 17 October 2008. During that session, the Preparatory Committee decided, inter alia, to begin negotiations on and drafting of the outcome document on the basis of the working document entitled "Indicative elements in relation to the outcome document" submitted by the inter-sessional open-ended intergovernmental working group, without prejudice to other additional proposals. It also decided to invite the United Nations High Commissioner for Human Rights to make a contribution to the Durban Review Conference on the implementation of the Durban Declaration and Programme of Action and proposals to enhance its implementation. The Preparatory Committee also decided to establish an inter-sessional open-ended intergovernmental working group to continue and finalize the process of negotiation on and drafting of the outcome document.

63. The intergovernmental working group met for the first time on 27 November 2008 and held its first session from 19 to 23 January 2009. From 16 until 19 February and on 26 February 2009 it held informal open-ended consultations. Its second and concluding session, held from 6 to 9 April 2009, concluded with the adoption of its report containing the draft outcome document of the Durban Review Conference as negotiated and drafted by the working group (A/CONF.211/PC.4/2, annex I).

64. The third and concluding substantive session of the Preparatory Committee for the Durban Review Conference, held from 15 to 17 April 2009, concluded with the adoption of a draft outcome for the Durban Review Conference.

65. The Durban Review Conference which took place in Geneva from 20 to 24 April 2009, is reported on below.

66. Shortly after the Durban Review Conference, the Human Rights Council's Universal Periodic Review Working Group held its fifth session (4-15 May 2009). References to the spirit of the Durban Review Conference were made in recommendations listed in the Working Group's reports on Vanuatu (A/HRC/WG.6/5/L.13) and Yemen (A/HRC/WG.6/5/L.12). In the Group's report on Uruguay, the country's contribution to the Review Conference was noted and it was recommended, in this regard, that the Government continue efforts to implement the outcome document of the Review Conference both at national and international level (A/HRC/WG.6/5/L.11). In the report on New Zealand, several countries recommended that the Government endorse the outcome document of the Durban Review Conference (A/HRC/WG.6/5/L.7).

A. United Nations human rights mechanisms, treaty bodies and others

Special procedures mandate holders

67. Several special procedures mandate holders participated in the Durban review process. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance participated at the Africa Regional Preparatory Meeting for the Durban Review Conference, held in Abuja from 24 to 25 August 2008. The Special Rapporteur on the freedom of religion or belief, in her capacity as Chairperson of the Coordinating Committee of Special Procedures, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance addressed the Preparatory Committee for the Durban Review Conference at its second substantive session on 6 October 2008. The Chairperson of the Coordinating Committee of Special Procedures and several other mandate holders addressed the plenary of the Durban Review Conference.

68. A number of special procedures mandate holders participated in several side-events organized by OHCHR during the Review Conference. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on the promotion and protection of freedom of opinion and expression participated in the side event on freedom of expression and incitement to racial and religious hatred on 23 April 2009 and issued a joint statement on that occasion.

69. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance participated in a high-level panel to celebrate the International Day for the Elimination of Racial Discrimination on 19 March 2009.

70. From 2 to 3 October 2008, the Special Rapporteur on the promotion and protection of freedom of opinion and expression and the Special Rapporteur on freedom of religion or belief also participated in an expert seminar organized by OHCHR in Geneva on freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility and violence (A/HRC/10/31/Add.3).

Committee on the Elimination of Racial Discrimination

71. During its seventy-fourth session, held in Geneva from 16 February until 6 March 2009, the Committee on the Elimination of Racial Discrimination adopted concluding observations and recommendations on nine periodic reports of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, after having held a dialogue with delegations from the Governments of each State. The Committee followed up on the implementation of its relevant recommendations through continuing correspondence with the respective States parties and encouraged reporting efforts by States parties whose initial or periodic reports were seriously overdue. The Committee reminded each State party with which it held a dialogue on the implementation of the Convention to continue to take into account the relevant parts of the Durban Declaration and Programme of Action in its implementation efforts and to include in its next periodic report information on national action plans or other measures taken in this regard.

72. Under its early warning and urgent action procedure, the Committee considered a number of situations relating to patterns of discrimination on grounds of ethnicity, indigenous rights and discrimination against Roma, as well as legislative developments with a potential to undermine rights enshrined in the Convention. The Committee also continued its thematic discussions on the subject of special measures, within the meaning of articles 1 (4) and 2 (2) of the Convention, and advanced its work aimed at the elaboration of a general recommendation on the subject, which will be its general recommendation No. 32.

73. Members of the Committee on the Elimination of Racial Discrimination actively participated in the Durban Review Conference, including holding a side event entitled "Combating racial discrimination: the central role of CERD".

Durban mechanisms

74. The Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action held its sixth session in two parts, the first on 21 January 2008 and from 28 January to 1 February 2008 and the second on 18 December 2008. The session concluded with the adoption of a compilation of conclusions and recommendations adopted by the working group, which constituted its contribution to the Preparatory Committee for the Durban Review Conference (A/HRC/10/87).

75. The Ad Hoc Committee of the Human Rights Council on the Elaboration of Complementary Standards to the International Convention on the Elimination of All Forms of Racial Discrimination held the second part of its first session from 15 to 19 December 2008. The session concluded with the adoption of a road map for the elaboration of complementary international standards (A/HRC/10/88). According to the road map, Member States were required to provide their inputs in the form of action points to the chair/rapporteur, with suggestions on issues they wished the Ad Hoc Committee to address, in order to enable the chair/rapporteur to prepare a document for discussion during the next session in October 2009. On 27 March, the Human Rights Council endorsed the road map for the elaboration of complementary standards in a resolution. Upon the request of the Chair, communicated by a note verbale of 2 April 2009, 15 submissions were received from Member States and groups of States, including the Group of African States, the European Union, the Organization of the Islamic Conference and Argentina, on behalf of some nine States,[1] which the Chairperson compiled in the form of an outcome covering four parts: definition of concepts; action points on the elaboration of complementary standards applicable to victims or situations of racism, racial discrimination, xenophobia and related intolerance, including their contemporary forms and manifestations in general; action points applicable to victims of racism, racial discrimination, xenophobia and related intolerance in specific situations; and contributions not covered in the previous parts. The Chair consulted with Member States on his draft outcome on 10 July 2009. Following further reviews and consideration by the Chairperson, he will finalize the outcome, which is expected to provide the basis for the work of the second session of the Ad Hoc Committee scheduled in October 2009.

[1] The nine States are: Argentina, Brazil, Chile, Iceland, Japan, Mexico, the Republic of Korea, Switzerland and Uruguay.

76. The Working Group of Experts on People of African Descent held its eighth annual session between 12 and 16 January 2009. During its session, the Working Group welcomed four new members and took the opportunity to review its work and methodologies. The Working Group considered whether any of the themes already examined required further analysis or recommendations in order to achieve the desired improvement of the situation of people of African descent. Upon completing the above-mentioned review, the Working Group identified pertinent themes that will be addressed in future sessions as well as several modifications to its method of work. The Working Group formulated its programme of work that will guide its discussions in future sessions as well as other activities in pursuance of its mandate. In keeping with methodologies used so far, during its eighth session the Working Group also analysed a specific theme relevant to the situation of people of African descent: the situation of children of African descent.

77. Between 22 and 26 June 2009, and based upon a standing invitation to special procedures by the Government of Ecuador, the Working Group carried out a country visit to Ecuador. During the visit the experts of the Working Group met with State and Government authorities, civil society representatives, the international community, United Nations agencies and academics. The Working Group also visited three Afro-Ecuadorean communities outside of Quito. The Working Group will present its report on its visit to Ecuador to the Human Rights Council in 2010.

Durban Review Conference

78. The Review Conference took place in Geneva from 20 to 24 April 2009. It concluded with the adoption, by consensus, of an outcome document, enshrining a common aspiration: to defy racism in all its manifestations and work to stamp it out wherever it may occur. The outcome document urged States, inter alia, to prevent manifestations of racism, racial discrimination and xenophobia, especially in relation to migrants, refugees and asylum-seekers. States were also asked to promote greater participation and opportunities for people of African and Asian descent, indigenous peoples and individuals belonging to ethnic, religious or linguistic minorities. The outcome also reaffirmed the centrality of freedom of expression and stressed its compatibility with the prohibition of incitement to hatred, thereby reconciling these two equally fundamental principles of international human rights law.

79. During the Durban Review Conference, OHCHR organized, including in cooperation with other actors such as NGOs, a series of over 40 events and cultural activities to highlight the issues being discussed at the Review Conference. Under themes covering the rights of indigenous peoples, the link between racism and poverty, policing in diverse societies, migration and racism and HIV-related discrimination and racism and sports, the side events enabled a large number of stakeholders to exchange views and share good practices on pertinent issues.

80. OHCHR continued its support for NGO engagement with the Durban Review Conference and its preparatory processes, providing updated information and advice through a series of nine electronic bulletins for NGOs, which were widely disseminated as well as posted on the OHCHR website. Interactive briefings were held on a monthly basis in Geneva prior to the Durban Review Conference, when the OHCHR Coordinator briefed NGOs and responded to their questions.

81. An NGO liaison office, which was set up prior to the Durban Review Conference to respond to the needs and questions of NGOs, facilitated the work of the 1,132 representatives of 315 NGOs who attended the Durban Review Conference. Daily NGO briefings were held, and the High Commissioner for Human Rights addressed NGO representatives on the third day of the Conference. NGOs submitted 30 written statements and 104 NGOs took the floor under item 9. Related NGO documentation was made available on the OHCHR Extranet.

82. A total of 59 NGOs from all geographic regions received OHCHR travel grants to attend the Durban Review Conference. OHCHR carried out an assessment of NGO participation to provide information on future outreach initiatives.

B. Commemoration of the International Day for the Elimination of Racial Discrimination, 21 March

83. A special event is organized annually by OHCHR to commemorate 21 March, the International Day for the Elimination of Racial Discrimination. In 2009, the Office marked the event with a high-level panel discussion on 19 March. The theme of the event was "United against racism: Dignity and justice for all".

84. In the High Commissioner's statement on the occasion of the commemoration of the International Day, she observed that "the massacre in Sharpeville represents a much wider tragedy; we mark its anniversary to remember also the millions of people around the world who are still, today, victims of racism and racial discrimination".

IV. Conclusions

85. The Durban Declaration and Programme of Action adopted in 2001 has provided a platform for the development by States and other actors of programmes, activities and institutions to combat racism, racial discrimination, xenophobia and related intolerance. Efforts to realize constitutional guarantees of equality and prohibition of discrimination at the national level have been complemented by the harmonization of laws and institutional developments at the regional level, which aim at the elimination of racism, racial discrimination, xenophobia and related intolerance.

86. The outcome document of the Durban Review Conference, which was adopted by consensus, creates further impetus for the accelerated implementation by States and other actors of the laudable objectives encapsulated in the Durban Declaration and Programme of Action. Together with the Durban Declaration and Programme of Action, the outcome document provides the most comprehensive framework for addressing racism, racial discrimination, xenophobia and related intolerance.